Adopt Part Env-Ws 905 to read as follows:

PART Env-Ws 905 STANDARDS FOR MANAGEMENT OF MERCURY-CONTAINING AMALGAM

Env-Ws 905.01 <u>Purpose</u>. The purpose of these rules is to reduce the discharge of mercury-containing amalgam into wastewater.

Env-Ws 905.02 <u>Applicability</u>. These rules shall apply to any dental <u>facility practice</u> where mercury-containing amalgam is applied, altered, maintained, *or* removed, or disposed, *from within the human oral cavity* or where mercury-containing amalgam waste is otherwise generated.

Env-Ws 905.03 <u>Definitions</u>. For the purposes of this part, the following definitions shall apply:

- (a) "Amalgam separator" means an item of dental equipment designed to remove amalgam particles from the wastewater from the dental facility *practice*, so as to reduce the number of amalgam particles and therefore the amount of amalgam entering the sewer system or subsurface sewage disposal system;
- (b) "Dental facility practice" means any institution, clinic, place of business, or other location a business established for the purpose of practicing dentistry, as defined by RSA 317-A:20 where mercury containing amalgam is applied, altered, maintained, or removed, or where mercury-containing amalgam waste is otherwise generated;
  - (c) "Department" means the department of environmental services; and
- (d) "Hazardous waste rules" means Env-Wm 110, Env-Wm 211-215, Env-Wm 351-353, and Env-Wm 400 through Env-Wm 1110; and
- (de) "Owner of the practice" means the person-individual, partnership, corporation, or association who owns the dental practice-as described in RSA 317-A:20.

Env-Ws 905.04 Amalgam Separator.

- (a) Before any dental facility *practice* discharges wastewater containing mercury-containing amalgam residues into a sewer system or to a subsurface disposal system, the owner of the practice shall ensure that such wastewaters are treated by an amalgam separator that:
  - (1) Is certified and tested to by the manufacturer as meeting ISO 11143/Cor.1:2002:1999(E) standards, including the applicable removal efficiency specified in (b) or (c), below; and

- (2) Is properly designed and constructed for the *expected volume and flow rate of discharge from the* dental facility practice it serves; and.
- (3b) For separators installed on or after December 31, 2003, *the amalgam separator shall* provides at least a 99% removal efficiency of amalgam by weight, based on the ISO 11143 standards test; or.
- (4c) For separators installed prior to December 31, 2003, *the amalgam separator shall* provides at least a 95% removal efficiency of amalgam by weight, based on the ISO 11143 standards test.
- (bd) The owner of the practice shall ensure that the amalgam separator is installed, operated, and maintained at the dental facility *practice* in accordance with the manufacturer's requirements and the requirements of ISO 11143 standards with the exception of ISO 11143 sampling and testing procedures.
- (ee) Waste amalgam collected by an amalgam separator or *by* any other filter, trap, or other method, shall be managed *as hazardous wastes* in accordance with Env-Wm 110 through Env-Wm 1110 the hazardous waste rules.

Env-Ws 905.05 Monitoring. Any person who installs or arranges for the installation of an amalgam separator at a dental facility shall ensure that:

- (a) A monitoring point is installed at the outlet of the amalgam separator or downstream of the amalgam separator at a location upstream of any discharge of other waste;
- (b) The monitoring point is installed in such a manner that the flow exiting the amalgam separator can be intercepted and sampled; and
  - (c) The monitoring point is accessible at all times for inspection.

## Env-Ws 905.06-05 Certification.

- (a) The owner of the practice who installs or arranges for the installation of an amalgam separator at a dental facility-practice shall certify in writing to the department that an amalgam separator has been properly installed in accordance with this part.
- (b) The certification required by (a), above, shall be provided to the department within 30 days of completion of installation.
  - (c) The certification shall:
    - (1) Identify the manufacturer and model of amalgam separator installed;
    - (2) Describe and iInclude a written description, which may be a sketch, of the location of the amalgam separator location in sufficient detail to allow a person not familiar with the location of the amalgam separator to find it;
    - (3) Describe and include a sketch of the sampling location as required by Env-Ws 905.05:

- (43) Identify the owner of the dental practice and facility the street address of the dental practice at which the amalgam separator was installed; and
- (54) Identify the maximum flow rate the amalgam separator is designed to treat.
- (d) The certification shall be signed by:
  - (1) A duly-authorized corporate officer, if the dental practice is a corporation;
  - (2) One of the general partners, if the dental practice is a partnership;
  - (3) The sole proprietor, if the dental practice is a sole proprietorship; or
  - (4) A duly-authorized officer of the association, if the dental practice is a professional association.

## Env-Ws 905.<del>07</del>06 Waivers.

- (a) The rules contained in this part apply to a variety of conditions and circumstances. It is recognized that strict compliance with all rules prescribed herein might not fit every conceivable situation. *Subject to (b)*, *below*, *t*The owner of the practice may request a waiver of specific rules in this part in accordance with (bc) and (ed), below.
- (b) The owner of the practice shall submit any request for waivers to the hazardous waste rules in accordance with Env-Wm 212.
  - (bc) A request for a waiver shall be submitted to the department in writing.
  - (ed) A request for a waiver shall include the following information:
    - (1) A specific reference to the section of the rule for which a waiver is being sought;
    - (2) A full explanation of why a waiver is necessary;
    - (3) Detailed information showing how the granting of the waiver is consistent with this part; and
    - (4) A technical analysis demonstrating how any proposed alternate technology, *device*, or practice-technique provides functional equivalency to the requirements of equivalent or better removal of amalgam waste than strict compliance with this part.
- (e) If the request for a waiver is incomplete or provides insufficient information to allow the department to make a decision, the department shall ask for additional information to be provided. The owner of the practice requesting a waiver shall supply the additional information within 30 days of request by the department.

- (df) The department shall grant a waiver if:
  - (1) The proposed alternatives *technology, device, or technique* are *is* adequate to ensure that the purpose of these rules is met and the result provides equivalent or better treatment than strict compliance with this part; and or
  - (2) The proposed alternatives are at least equivalent to the specific requirements contained in this part; or
  - (32) Through the use of evaporation devices or other technologies, the owner of the practice demonstrates that:
    - a. There is no wastewater discharge from any dental chair station; and
    - b. There is no connection from any dental chair station or plumbing fixture that might discharge amalgam waste to a sanitary sewer or subsurface sewage disposal system; and.
    - c. The device or technology meets all applicable department rules.
- (e) The department shall deny the waiver if:
  - (1) Granting the waiver would contravene the stated purpose of this part or would contravene any rule adopted pursuant thereto other than the specific rule for which the waiver is requested; or
  - (2) The person requesting the waiver does not provide complete information as required by (c) above.
- (g) A waiver granted under this section shall apply solely to the rule in this part that is waived, and shall not excuse compliance by the alternative technology, device, or technique with any other applicable federal, state, or local requirements.

Env-Ws 905.08-07 Effective Date. The owner of the practice shall install or arrange for the installation of an amalgam separator at a dental facility or apply for a waiver within 6 months of the effective date of these rules. No wastewater shall be discharged from any dental practice within 6 months of adoption of these rules unless:

- (a) An amalgam separator has been installed in compliance with these rules; or
- (b) A waiver has been obtained in accordance with these rules.

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Appendix	
Rule	Statute Implemented
Env-Ws 905	RSA 485-A:4, XVIII